

Signature  
Required

Signed Agreement and Financial Summary

**OCCUPANCY AGREEMENT**

Between

(b) (7)(F)

And

**GENERAL SERVICES ADMINISTRATION**

|          |           |          |   |                     |             |
|----------|-----------|----------|---|---------------------|-------------|
| ANY06647 | Final     | Version: | 7 | Date Last Modified: | 15-Aug-2006 |
| NY7361   | NY0080000 | LNy23372 |   | GSA Rent Review     |             |

(b) (7)(F) will occupy 21,628.00 usable ( 22,627.00 rentable) square feet of space and 0 structured parking spaces and 0 surface parking spaces at 186 EXCHANGE STREET (NY7361) located at 186 EXCHANGE STREET, BUFFALO, NY, for a period of 106 months commencing on or about 08/01/2006.  
The agency share of Joint Use Spaces is 447.39 rentable square feet.

(b) (7)(F) will pay the General Services Administration rent in accordance with the attached page(s). The rental will be adjusted annually for operating cost, real estate taxes, and parking escalations.

(b) (7)(F) will pay the General Services Administration additional rent for prorated share of joint use space associated with this location, if any.

Additional/reduced services are shown on the attached Occupancy Agreement Financial Summary.

**Mandatory Clauses**

**Leased Specific Mandatory Clauses**

**Alterations by Tenant Agency**

The tenant agency agrees that it will undertake no alterations to the real property governed by this OA without prior approval from PBS. Further, any alterations that might obligate PBS under a lease must be approved by the responsible PBS contracting officer.

**Building Services**

Building services to be provided to the tenant agency for the operating expense portion of the Rent are specified in the PBS Solicitation for Offers (SFO) that is made part of the lease contract. A copy of the lease contract is provided to the tenant agency. Additional or upgraded services beyond those identified in the SFO are provided by PBS or the lessor on a reimbursable basis. Charges for certain recurring reimbursable services may be billed on the PBS Bill. Recurring charges for overtime utilities, enhanced custodial services, mechanical O&M HVAC, mechanical O&M Other and additional guard services are eligible for billing on the PBS Bill provided the tenant agency has been designated as a "participating agency". The charges must be initiated by the tenant agency and renewed annually. The recurring RWA processing fee will be assessed against each service billed.

**Financial Terms**

While this occupancy agreement (OA) addresses financial terms that cover multiple fiscal years, the parties agree that: The tenant agency may relinquish space upon four (4) months' notice. Thus, at any future time, the tenant agency's financial obligation can be reduced to four (4) months of Rent, plus the unamortized balance of any tenant improvements financed through PBS, plus any rent concession not yet earned. Any free Rent or other concession given at the beginning of the occupancy term must be allocated on a pro-rata basis over the entire OA term, and the unearned balance repaid to PBS.

The tenant's financial obligations for years beyond the current year do not mature until the later year(s) are reached. Thus, there is no requirement that the tenant agency certify that current year funds are available to defray future year obligations.

The tenant's future years obligation to pay Rent is subject to the availability of funds, but the tenant agrees to make a good faith effort to meet its obligations as they arise.

#### **Lease Contract Rent**

The underlying lease contract rent will be passed through to the tenant agency. For a non-fully serviced lease, the cost of operating services not covered by the lease will also be passed through to the tenant agency. The PBS fee in leased space, calculated at 8% of the annual lease contract cost plus the cost of separately contracted operating services, will also apply. Charges for security and GSA-installed improvements may apply as well.

Charges for operating expenses, joint use space, parking, security and real estate taxes may be adjusted on an annual basis.

#### **Move Cost Responsibilities**

At the end of this OA term, if the tenant cannot remain in the space covered by this OA, the tenant is responsible for funding the physical move to new space. In the event PBS displaces or allows another user to displace the tenant before the expiration of the OA term, PBS must fund, or require the new user to fund, the tenant's physical move, and relocation of the tenant's telecommunications equipment. PBS must also reimburse, or require the new user to reimburse, the tenant for the undepreciated value of any lump sum payments the tenant made toward tenant improvements and the Rent differential at the new location until the displaced agency has time to budget. The Rent differential is calculated on all elements of Rent except the amortized tenant improvement cost.

#### **Obligation to Pay Rent**

The Tenant agency's obligation to pay rent for the space governed by this OA commences when both of the following occur: the space is substantially complete and operationally functional. Occupancy and rent start will be coordinated with the Tenant.

1. The space is ready for occupancy of personal property, typically the substantial completion date. Substantial completion is signaled in the case of leased space by the granting of an occupancy permit by the proper authority and/or by PBS's acceptance of the space as substantially complete in accordance with the lease. "Substantially complete" and "substantial completion" mean that the work, the common and other areas of the building, and all other things necessary for the Government's access to the premises and occupancy, possession, use and enjoyment thereof, as provided in the lease, have been completed or obtained, excepting only such minor matters as do not interfere with or materially diminish such access, occupancy, possession, use or enjoyment.

PBS will offer to an authorized representative of the Tenant the opportunity to participate in a walk-through of the space prior to final acceptance of the space as substantially complete by PBS. The authorized representative of the Tenant will make himself or herself available so as to not delay the walk-through of the space. The authorized representatives of PBS and the Tenant will itemize any defects and omissions (D&Os, or "punch list") of the construction project that will need to be corrected prior to final contract payment. Provided that the D&Os are minor matters not materially diminishing use of the space, the authorized representative of PBS, acting on behalf of the Government and its Tenant, will determine substantial completion.

2. The space is operationally functional. Operationally functional means that the building systems included in this lease must function and Lessor-provided building-specific safety and security features must be

operational. Related space that is necessary for a Tenant to function due to workflow adjacencies must be complete before rent commences.

For large projects that entail phased occupancy of the Tenant's space, rent will commence on the individual blocks of space when they are substantially complete and operationally functional. The blocks will be added to the Occupancy Agreement (OA) incrementally. In the case of phased occupancy with separate OAs (example, different Agency/Bureau codes), the rent start date for each OA will occur when the space associated with it is substantially complete and operationally functional.

If there is a substantial punch list for the space that would interfere with the Tenant's full access, occupancy, possession, use and enjoyment of the space, and the Tenant chooses to move in anyway, GSA will negotiate a rent discount with the Lessor while the punch list work is being completed. If after hours work is required, GSA will ensure that adequate security is provided while the contractor is in the Tenant's space.

Once the above "substantially complete" and "operationally functional" requirements have been met, rent will commence. GSA does not provide tenant agencies a grace period prior to rent commencement to accomplish the physical move into the space or to allow for the installation of personal property such as phones, furniture, computers, etc. However, rent should not start until those personal property items that have been included in the lease contract, such as telephone and data systems or audio/video systems, are operational unless the Tenant chooses to move into the space pursuant to the preceding paragraph.

#### **Occupancy Agreement Iterations**

The parties hereby agree that iterations of OAs prepared before selection of a lessor, contain preliminary financial terms only. Financial terms in preliminary OAs are not binding on either party; they are estimates for budgeting purposes. Accordingly, tenant agency signature on preliminary OAs does not bind the agency to the specific financial terms in the OA; rather, execution by the tenant agency constitutes that agency's commitment to the project. Until lease award, the tenant agency has the right to cancel the proposed project without financial obligation.

#### **PBS Services**

The services that PBS provides to its customers may be found in the March 2002 edition of the Pricing Desk Guide. Unless PBS provides otherwise in writing, the cost of these services is included in PBS's rents and fees. Any service beyond those identified in the Pricing Desk Guide are provided by PBS for an additional charge.

#### **Payment of Tenant Improvements**

The tenant agency must pay for tenant improvements in excess of the allowance by RWA. The tenant agency also has the right to pay lump sum for tenant improvements below the allowance threshold. The ability to make lump sum payments below the allowance threshold is only available at assignment inception, and only for the customization component of the allowance in new space. In backfill or relet space, if the tenant can accept existing tenant improvements "as is" or with modifications, the tenant can elect to waive all or part of the general allowance. Further, once the tenant allowance is set, if the agency then wishes to make a lump sum payment for improvements which are charged against the allowance, PBS cannot accept payments below the allowance threshold by RWA.

#### **Replacement Responsibilities**

The lessor bears the responsibility for replacement and renewal of shell items. PBS will also oblige the lessor to fund cyclic paint and carpeting within the tenant's space, as provided in the lease contract.

#### **Tenant Agency Appeal**

The tenant agency can appeal to the PBS asset manager in cases in which the agency's assigned tenant improvement allowance is inadequate to provide basic functionality for the space.

#### **Tenant Agency Move**

In the event the space covered by this OA involves a tenant agency move, once a design and construction rider or schedule has been made part of a lease contract, the rider/schedule must be incorporated into this OA. Once part of this OA, the schedule/rider becomes binding upon the tenant agency as well as upon PBS. Delay in project completion caused by either a) tenant agency failure to meet the review and approval times provided in the lease rider, or b) tenant changes to project scope, will be borne by the tenant agency. As a consequence of tenant-caused delay, the lessor may decline to postpone the scheduled substantial completion date (thereby advancing Rent commencement for the space) by the duration of the tenant-caused delay, on a day to day basis; this may result in rent charges at two locations simultaneously for the tenant. Additional direct expenses caused through tenant-caused delay or changes in project scope are chargeable against the tenant allowance; in the event the tenant allowance has been exhausted, the tenant must pay the lump sum cost by RWA. In summary, the tenant is responsible for the delay claim of the affected contractor and for rent that GSA budgeted to start on the date included in the Occupancy Agreement. If partial occupancy of the building is not possible due to one agency change, that agency is liable for the other tenant's rent who are unable to occupy their space on the date contained in their Occupancy Agreement. The rent start date should be adjusted for delay of occupancy caused by the lessor failing to deliver the real property on time. The rent start date should not be adjusted for delay of occupancy caused by a contractor failing to install personal property on time with one exception. For those personal property items that have been included in the lease contract, such as telephone and data systems, or audio/video systems, and the systems are not ready, the rent start date should be adjusted. Delayed furniture delivery and installation, which is not part of the lease contract, is not reason for delaying the rent start date. In its role as tenant representative, PBS may also be the cause of delay. Expenses associated with PBS-caused delay incurred by the tenant, for such things as additional storage for furniture, re-procurement expense, or additional consulting fees, will be credited against the tenant's rent obligation to PBS for the new space. In the case of lessor-caused delay, if there is a liquidated damages clause in the lease, PBS will pursue the lessor for the value of the damages. In the case of excusable delay (e.g., force majeure or any other delay the cause of which is beyond the reasonable control of either PBS or the tenant agency), neither PBS nor the tenant agency may pursue the other for the consequences of the delay.

#### **Other Mandatory Clauses**

##### **Tenant Improvement Amortization Cost**

(b) (7)(F) has elected to expend a total of (b) (4) their tenant improvements. This amount has been amortized in the rent and is itemized on the Financial Summary.

##### **Security Services**

(b) (7)(F)

#### **Optional Clauses**

##### **Ad Hoc Clauses**

##### **Total Amount of Lease Space for Group 2**

The Lease consists of a total of 32,223 rentable square feet / 30,800 ANSI BOMA office area square feet together with approximately 2,369 rentable square feet / 2,265 ANSI BOMA office area square feet of ?rent free? space for a total of 34,592 rentable square feet / 33,065 ANSI BOMA office area square feet of office and related space.

##### **Joint Use Space for Group 2 Only**

The Joint Use space consists of 625rsf/597usf of space together with 2369rsf/2265usf of ?rent free? space for a total of 2994rsf/2862usf of space. All rates for the Joint Use space are calculated based on the

625rsf/597usf. The Joint Use space consists of the common corridors and common break room, both internal to the total space leased by the Government. Effective May 26, 2010, the rate for the Joint Use space shall decrease to reflect the pay-off of the tenant improvement costs associated with the construction of the Joint Use space.

**Dulski Federal Building Former Tenants Joint Use**

Once all the tenant have relocated from the Dulski Federal Building into their leased space, all the former tenants of the Dulski Federal Building will be assigned Joint Use space, consisting of the Credit Union, Health Unit and the GSA Conference Center. The amount of Joint Use space assigned to each agency will be based on their percentage of the total aggregate amount of space occupied by all the relocated agencies.

**GSA Rent Review – ANY06647**

This replacement/Supplemental OA has been prepared as a result of GSA Rent review. The correction has been processed effective 8/1/2006. This OA is being processed to reflect the most recent operating cost escalation. OA ANY06647 did not reflect operating cost escalation effective 5/26/2006. Lessor was paid increase but (b) (7)(F) not charged increase. Also, the percentage of joint use occupied was adjusted with a credit due (b) (7)(F) for the period 10/2005 through 7/2006. A one-time billing adjustment will appear on your August bill for the difference between the 2 mos of escalations owed (b) (7)(F) and the 10 months of credit due (b) (7)(F) (b) (4) for a balance of (b) (4)

**GSA Rent Review ANY06647**

This Replacement/Supplemental OA has been prepared as a result of GSA Rent Review. The correction has been processed effective 8/1/2006. This OA is being processed to reflect no agency signature.

I agree to the initial terms with the understanding modifications will

|                       |                           |
|-----------------------|---------------------------|
| Approved              | Approved (b) (6)          |
| Agency Representative | GSA Representative        |
| Title                 | Title Contracting Officer |
| Date                  | Date 8/15/06              |

ANY06647 Final

Version: 7

Page: 1 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LNY23372

GSA Rent Review  
Fiscal Year: 2006 Partial  
Period: 01-Aug-2006 to 30-Sep-2006

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C)

22,627

\$105,198

(b) (4)

OA # (ANY06647) OA Status (Final) Version (7) Loc Code (NY7361)

ANY06647 Final

Version: 7

Page: 2 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LNY23372

GSA Rent Review  
Fiscal Year: 2007  
Period: 01-Oct-2006 to 30-Sep-2007

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C)

22,627

\$632,984

(b) (4)

ANY06647 Final

Version: 7

Page: 3 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LN23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2008  
Period: 01-Oct-2007 to 30-Sep-2008

**Charge Basis Annual Charge Rate per Sq.Ft/Space**

(b) (4)

**D. Total Annual Rent (A+B+C)**

22,627

\$636,284

(b) (4)



ANY06647 Final

Version: 7

Page: 4 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LN23372

GSA Rent Review  
Fiscal Year: 2009

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

Period: 01-Oct-2008 to 30-Sep-2009

**Charge Basis Annual Charge Rate per Sq.Ft/Space**

(b) (4)

**D. Total Annual Rent (A+B+C)**

22,627

\$639,682

(b) (4)

ANY06647 Final

Version: 7

Page: 5 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LNy23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2010  
Period: 01-Oct-2009 to 30-Sep-2010

**Charge Basis Annual Charge Rate per Sq.Ft/Space**

(b) (4)

**D. Total Annual Rent (A+B+C)** 22,627 \$569,776

(b) (4)

OA # (ANY06647) OA Status (Final) Version (7) Loc Code (NY7361)

ANY06647 Final

Version: 7

Page: 6 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LNY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2011  
Period: 01-Oct-2010 to 30-Sep-2011

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C) 22,627 \$426,570

(b) (4)

ANY06647 Final

Version: 7

Page: 7 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LN23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2012  
Period: 01-Oct-2011 to 30-Sep-2012

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C)

22,627

\$430,283

(b) (4)

ANY06647 Final

Version: 7

Page: 8 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LN23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2013  
Period: 01-Oct-2012 to 30-Sep-2013

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C) 22,627 \$434,109

(b) (4)

OA # (ANY06647) OA Status (Final) Version (7) Loc Code (NY7361)

ANY06647 Final

Version: 7

Page: 9 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LNY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2014  
Period: 01-Oct-2013 to 30-Sep-2014

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C) 22,627 \$438,048

(b) (4)

OA # (ANY06647) OA Status (Final) Version (7) Loc Code (NY7361)

ANY06647 Final

Version: 7

Page: 10 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LNY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2015 Partial  
Period: 01-Oct-2014 to 25-May-2015

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C) 22,627 \$294,125

(b) (4)

Signature  
Required

Signed Agreement and Financial Summary

**OCCUPANCY AGREEMENT**

Between

And  
**GENERAL SERVICES ADMINISTRATION**

|          |           |          |   |                     |             |
|----------|-----------|----------|---|---------------------|-------------|
| ANY06650 | Final     | Version: | 6 | Date Last Modified: | 15-Aug-2006 |
| NY7361   | NY0080003 | LNY23372 |   | GSA Rent Review     |             |

will occupy 1,553.00 usable ( 1,625.00 rentable) square feet of space and 0 structured parking spaces and 0 surface parking spaces at 186 EXCHANGE STREET (NY7361) located at 186 EXCHANGE STREET, BUFFALO, NY, for a period of 106 months commencing on or about 08/01/2006.

The agency share of Joint Use Spaces is 32.13 rentable square feet.

will pay the General Services Administration rent in accordance with the attached page(s). The rental will be adjusted annually for operating cost, real estate taxes, and parking escalations.

will pay the General Services Administration additional rent for prorated share of joint use space associated with this location, if any.

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#### **Other Mandatory Clauses**

##### **Tenant Improvement Amortization Cost**

[REDACTED] has elected to expend a total of \$(b) (4) for their tenant improvements. This amount has been amortized in the rent and is itemized on the Financial Summary.

##### **Security Services**

(b) (7)(F)

#### **Optional Clauses**

##### **Optional Clauses for All Occupancy Agreements**

##### **Ad Hoc Clauses**

##### **Total Amount of Lease Space for Group 2**

The Lease consists of a total of 32,223 rentable square feet / 30,800 ANSI BOMA office area square feet together with approximately 2,369 rentable square feet / 2,265 ANSI BOMA office area square feet of ?rent free? space for a total of 34,592 rentable square feet / 33,065 ANSI BOMA office area square feet of office and related space.

##### **Joint Use Space for Group 2 Only**

The Joint Use space consists of 625rsf/597usf of space together with 2369rsf/2265usf of ?rent free? space for a total of 2994rsf/2862usf of space. All rates for the Joint Use space are calculated based on the 625rsf/597usf. The Joint Use space consists of the common corridors and common break room, both internal to the total space leased by the Government. Effective May 26, 2010, the rate for the Joint Use space shall decrease to reflect the pay-off of the tenant improvement costs associated with the construction of the Joint Use space.

#### Dulski Federal Building Former Tenants Joint Use

Once all the tenant have relocated from the Dulski Federal Building into their leased space, all the former tenants of the Dulski Federal Building will be assigned Joint Use space, consisting of the Credit Union, Health Unit and the GSA Conference Center. The amount of Joint Use space assigned to each agency will be based on their percentage of the total aggregate amount of space occupied by all the relocated agencies.

#### GSA Rent Review - ANY06650

This replacement/Supplemental OA has been prepared as a result of GSA Rent review. The correction has been processed effective 8/1/2006. This OA is being processed to reflect the most recent operating cost escalation. OA ANY06650 did not reflect operating cost escalation effective 5/26/2006. Lessor was paid increase but (b) (7)(F) not charged increase. Also, the percentage of joint use occupied was adjusted with a credit due (b) (7)(F) the period 10/2005 through 7/2006. A one-time billing adjustment will appear on your August bill for the difference between the 2 mos of escalations owed (b) (4) and the 10 months of credit due (b) (7)(F) (b) (4) for a balance of (b) (4)

#### GSA Rent Review ANY06650

This Replacement/Supplemental OA has been prepared as a result of GSA Rent Review. The correction has been processed effective 8/1/2006. This OA is being processed to reflect no agency signature.

I agree to the initial terms with the understanding modifications w

|                       |                           |
|-----------------------|---------------------------|
| Approved              | Approved (b) (6)          |
| Agency Representative | GSA Representative        |
| Title                 | Title Contracting Officer |
| Date                  | Date 8/15/06.             |

OA # (ANY06650) OA Status (Final) Version (6) Loc Code (NY7361)

ANY06650 Final

Version: 6

Page: 1 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LNY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2006 Partial  
Period: 01-Aug-2006 to 30-Sep-2006

**Charge Basis Annual Charge Rate per Sq.Ft/Space**

(b) (4)

**D. Total Annual Rent (A+B+C)**

1,625

\$7,585

(b) (4)

OA # (ANY06650) OA Status (Final) Version (6) Loc Code (NY7361)

ANY06650 Final

Version: 6

Page: 2 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LNY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2007  
Period: 01-Oct-2006 to 30-Sep-2007

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C)

1,625

\$45,638

(b) (4)

OA # (ANY06650) OA Status (Final) Version (6) Loc Code (NY7361)

ANY06650 Final

Version: 6

Page: 3 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LN23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2008  
Period: 01-Oct-2007 to 30-Sep-2008

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C)

1,625

\$45,875

(b) (4)

OA # (ANY06650) OA Status (Final) Version (6) Loc Code (NY7361)

ANY06650 Final

Version: 6

Page: 4 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LNY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2009  
Period: 01-Oct-2008 to 30-Sep-2009

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C)

1,625

\$46,119

(b) (4)



ANY06650 Final

Version: 6

Page: 5 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LN23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2010  
Period: 01-Oct-2009 to 30-Sep-2010

**Charge Basis Annual Charge Rate per Sq.Ft/Space**

(b) (4)

**D. Total Annual Rent (A+B+C)** 1,625 \$41,039

(b) (4)

OA # (ANY06650) OA Status (Final) Version (6) Loc Code (NY7361)

ANY06650 Final

Version: 6

Page: 6 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LN23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2011  
Period: 01-Oct-2010 to 30-Sep-2011

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C) 1,625 \$30,635

(b) (4)

OA # (ANY06650) OA Status (Final) Version (6) Loc Code (NY7361)

ANY06650 Final

Version: 6

Page: 7 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LNY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2012  
Period: 01-Oct-2011 to 30-Sep-2012

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C) 1,625 \$30,902

(b) (4)

OA # (ANY06650)    OA Status (Final)    Version (6)    Loc Code (NY7361)

ANY06650    Final

Version:    6

Page:    8 of 10  
Date Last Modified:    15-Aug-2006

(b) (7)(F)

LNY23372

OA Start Date:    01-Aug-2006  
OA End Date:    25-May-2015

GSA Rent Review  
Fiscal Year:    2013  
Period:    01-Oct-2012 to    30-Sep-2013

**Charge Basis    Annual Charge    Rate per Sq.Ft/Space**

|         |  |  |
|---------|--|--|
| (b) (4) |  |  |
|---------|--|--|

D.    Total Annual Rent (A+B+C)    1,625    \$31,176

|         |  |  |
|---------|--|--|
| (b) (4) |  |  |
|---------|--|--|

OA # (ANY06650) OA Status (Final) Version (6) Loc Code (NY7361)

ANY06650 Final

Version: 6

Page: 9 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LN23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2014  
Period: 01-Oct-2013 to 30-Sep-2014

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C) 1,625 \$31,459

(b) (4)

OA # (ANY06650) OA Status (Final) Version (6) Loc Code (NY7361)

ANY06650 Final

Version: 6

Page: 10 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LN23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2015 Partial  
Period: 01-Oct-2014 to 25-May-2015

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C) 1,625 \$21,123

(b) (4)

## Signed Agreement and Financial Summary

## OCCUPANCY AGREEMENT

Between

(b) (7)(F)

And

GENERAL SERVICES ADMINISTRATION

|          |           |          |   |                     |             |
|----------|-----------|----------|---|---------------------|-------------|
| ANY06649 | Final     | Version: | 7 | Date Last Modified: | 15-Aug-2006 |
| NY7361   | NY0080002 | LN23372  |   | GSA Rent Review     |             |

(b) (7)(F) will occupy 941.00 usable ( 984.00 rentable) square feet of space and 0 structured parking spaces and 0 surface parking spaces at 186 EXCHANGE STREET (NY7361) located at 186 EXCHANGE STREET, BUFFALO, NY, for a period of 106 months commencing on or about 08/01/2006.

The agency share of Joint Use Spaces is 19.46 rentable square feet.

(b) (7)(F) will pay the General Services Administration rent in accordance with the attached page(s). The rental will be adjusted annually for operating cost, real estate taxes, and parking escalations.

(b) (7)(F) will pay the General Services Administration additional rent for prorated share of joint use space associated with this location, if any.

Additional/reduced services are shown on the attached Occupancy Agreement Financial Summary.

**Mandatory Clauses****Leased Specific Mandatory Clauses****Alterations by Tenant Agency**

The tenant agency agrees that it will undertake no alterations to the real property governed by this OA without prior approval from PBS. Further, any alterations that might obligate PBS under a lease must be approved by the responsible PBS contracting officer.

**Building Services**

Building services to be provided to the tenant agency for the operating expense portion of the Rent are specified in the PBS Solicitation for Offers (SFO) that is made part of the lease contract. A copy of the lease contract is provided to the tenant agency. Additional or upgraded services beyond those identified in the SFO are provided by PBS or the lessor on a reimbursable basis. Charges for certain recurring reimbursable services may be billed on the PBS Bill. Recurring charges for overtime utilities, enhanced custodial services, mechanical O&M HVAC, mechanical O&M Other and additional guard services are eligible for billing on the PBS Bill provided the tenant agency has been designated as a "participating agency". The charges must be initiated by the tenant agency and renewed annually. The recurring RWA processing fee will be assessed against each service billed.

**Financial Terms**

While this occupancy agreement (OA) addresses financial terms that cover multiple fiscal years, the parties agree that: The tenant agency may relinquish space upon four (4) months' notice. Thus, at any future time, the tenant agency's financial obligation can be reduced to four (4) months of Rent, plus the unamortized balance of any tenant improvements financed through PBS, plus any rent concession not yet earned. Any free Rent or other concession given at the beginning of the occupancy term must be allocated on a pro-rata basis over the entire OA term, and the unearned balance repaid to PBS.

The tenant's financial obligations for years beyond the current year do not mature until the later year(s) are reached. Thus, there is no requirement that the tenant agency certify that current year funds are available to defray future year obligations.

The tenant's future years obligation to pay Rent is subject to the availability of funds, but the tenant agrees to make a good faith effort to meet its obligations as they arise.

**Lease Contract Rent**

The underlying lease contract rent will be passed through to the tenant agency. For a non-fully serviced lease, the cost of operating services not covered by the lease will also be passed through to the tenant agency. The PBS fee in leased space, calculated at 8% of the annual lease contract cost plus the cost of separately contracted operating services, will also apply. Charges for security and GSA-installed improvements may apply as well.

Charges for operating expenses, joint use space, parking, security and real estate taxes may be adjusted on an annual basis.

**Move Cost Responsibilities**

At the end of this OA term, if the tenant cannot remain in the space covered by this OA, the tenant is responsible for funding the physical move to new space. In the event PBS displaces or allows another user to displace the tenant before the expiration of the OA term, PBS must fund, or require the new user to fund, the tenant's physical move, and relocation of the tenant's telecommunications equipment. PBS must also reimburse, or require the new user to reimburse, the tenant for the undepreciated value of any lump sum payments the tenant made toward tenant improvements and the Rent differential at the new location until the displaced agency has time to budget. The Rent differential is calculated on all elements of Rent except the amortized tenant improvement cost.

**Obligation to Pay Rent**

The Tenant agency's obligation to pay rent for the space governed by this OA commences when both of the following occur: the space is substantially complete and operationally functional. Occupancy and rent start will be coordinated with the Tenant.

1. The space is ready for occupancy of personal property, typically the substantial completion date. Substantial completion is signaled in the case of leased space by the granting of an occupancy permit by the proper authority and/or by PBS's acceptance of the space as substantially complete in accordance with the lease. "Substantially complete" and "substantial completion" mean that the work, the common and other areas of the building, and all other things necessary for the Government's access to the premises and occupancy, possession, use and enjoyment thereof, as provided in the lease, have been completed or obtained, excepting only such minor matters as do not interfere with or materially diminish such access, occupancy, possession, use or enjoyment.

PBS will offer to an authorized representative of the Tenant the opportunity to participate in a walk-through of the space prior to final acceptance of the space as substantially complete by PBS. The authorized representative of the Tenant will make himself or herself available so as to not delay the walk-through of the space. The authorized representatives of PBS and the Tenant will itemize any defects and omissions (D&Os, or "punch list") of the construction project that will need to be corrected prior to final contract payment. Provided that the D&Os are minor matters not materially diminishing use of the space, the authorized representative of PBS, acting on behalf of the Government and its Tenant, will determine substantial completion.

2. The space is operationally functional. Operationally functional means that the building systems included in this lease must function and Lessor-provided building-specific safety and security features must be



operational. Related space that is necessary for a Tenant to function due to workflow adjacencies must be complete before rent commences.

For large projects that entail phased occupancy of the Tenant's space, rent will commence on the individual blocks of space when they are substantially complete and operationally functional. The blocks will be added to the Occupancy Agreement (OA) incrementally. In the case of phased occupancy with separate OAs (example, different Agency/Bureau codes), the rent start date for each OA will occur when the space associated with it is substantially complete and operationally functional.

If there is a substantial punch list for the space that would interfere with the Tenant's full access, occupancy, possession, use and enjoyment of the space, and the Tenant chooses to move in anyway, GSA will negotiate a rent discount with the Lessor while the punch list work is being completed. If after hours work is required, GSA will ensure that adequate security is provided while the contractor is in the Tenant's space.

Once the above "substantially complete" and "operationally functional" requirements have been met, rent will commence. GSA does not provide tenant agencies a grace period prior to rent commencement to accomplish the physical move into the space or to allow for the installation of personal property such as phones, furniture, computers, etc. However, rent should not start until those personal property items that have been included in the lease contract, such as telephone and data systems or audio/video systems, are operational unless the Tenant chooses to move into the space pursuant to the preceding paragraph.

#### **Occupancy Agreement Iterations**

The parties hereby agree that iterations of OAs prepared before selection of a lessor, contain preliminary financial terms only. Financial terms in preliminary OAs are not binding on either party; they are estimates for budgeting purposes. Accordingly, tenant agency signature on preliminary OAs does not bind the agency to the specific financial terms in the OA; rather, execution by the tenant agency constitutes that agency's commitment to the project. Until lease award, the tenant agency has the right to cancel the proposed project without financial obligation.

#### **PBS Services**

The services that PBS provides to its customers may be found in the March 2002 edition of the Pricing Desk Guide. Unless PBS provides otherwise in writing, the cost of these services is included in PBS's rents and fees. Any service beyond those identified in the Pricing Desk Guide are provided by PBS for an additional charge.

#### **Payment of Tenant Improvements**

The tenant agency must pay for tenant improvements in excess of the allowance by RWA. The tenant agency also has the right to pay lump sum for tenant improvements below the allowance threshold. The ability to make lump sum payments below the allowance threshold is only available at assignment inception, and only for the customization component of the allowance in new space. In backfill or relet space, if the tenant can accept existing tenant improvements "as is" or with modifications, the tenant can elect to waive all or part of the general allowance. Further, once the tenant allowance is set, if the agency then wishes to make a lump sum payment for improvements which are charged against the allowance, PBS cannot accept payments below the allowance threshold by RWA.

#### **Replacement Responsibilities**

The lessor bears the responsibility for replacement and renewal of shell items. PBS will also oblige the lessor to fund cyclic paint and carpeting within the tenant's space, as provided in the lease contract.

#### **Tenant Agency Appeal**

The tenant agency can appeal to the PBS asset manager in cases in which the agency's assigned tenant improvement allowance is inadequate to provide basic functionality for the space.

#### **Tenant Agency Move**

In the event the space covered by this OA involves a tenant agency move, once a design and construction rider or schedule has been made part of a lease contract, the rider/schedule must be incorporated into this OA. Once part of this OA, the schedule/rider becomes binding upon the tenant agency as well as upon PBS. Delay in project completion caused by either a) tenant agency failure to meet the review and approval times provided in the lease rider, or b) tenant changes to project scope, will be borne by the tenant agency. As a consequence of tenant-caused delay, the lessor may decline to postpone the scheduled substantial completion date (thereby advancing Rent commencement for the space) by the duration of the tenant-caused delay, on a day to day basis; this may result in rent charges at two locations simultaneously for the tenant. Additional direct expenses caused through tenant-caused delay or changes in project scope are chargeable against the tenant allowance; in the event the tenant allowance has been exhausted, the tenant must pay the lump sum cost by RWA. In summary, the tenant is responsible for the delay claim of the affected contractor and for rent that GSA budgeted to start on the date included in the Occupancy Agreement. If partial occupancy of the building is not possible due to one agency change, that agency is liable for the other tenant's rent who are unable to occupy their space on the date contained in their Occupancy Agreement. The rent start date should be adjusted for delay of occupancy caused by the lessor failing to deliver the real property on time. The rent start date should not be adjusted for delay of occupancy caused by a contractor failing to install personal property on time with one exception. For those personal property items that have been included in the lease contract, such as telephone and data systems, or audio/video systems, and the systems are not ready, the rent start date should be adjusted. Delayed furniture delivery and installation, which is not part of the lease contract, is not reason for delaying the rent start date. In its role as tenant representative, PBS may also be the cause of delay. Expenses associated with PBS-caused delay incurred by the tenant, for such things as additional storage for furniture, re-procurement expense, or additional consulting fees, will be credited against the tenant's rent obligation to PBS for the new space. In the case of lessor-caused delay, if there is a liquidated damages clause in the lease, PBS will pursue the lessor for the value of the damages. In the case of excusable delay (e.g., force majeure or any other delay the cause of which is beyond the reasonable control of either PBS or the tenant agency), neither PBS nor the tenant agency may pursue the other for the consequences of the delay.

#### Other Mandatory Clauses

##### Tenant Improvement Amortization Cost

(b) (7)(F) has elected to expend a total of (b) (4) for their tenant improvements. This amount has been amortized in the rent and is itemized on the Financial Summary.

##### Security Services

(b) (7)(F)

#### Optional Clauses

##### Ad Hoc Clauses

##### Total Amount of Lease Space for Group 2

The Lease consists of a total of 32,223 rentable square feet / 30,800 ANSI BOMA office area square feet together with approximately 2,369 rentable square feet / 2,265 ANSI BOMA office area square feet of ?rent free? space for a total of 34,592 rentable square feet / 33,065 ANSI BOMA office area square feet of office and related space.

##### Joint Use Space for Group 2 Only

The Joint Use space consists of 625rsf/597usf of space together with 2369rsf/2265usf of ?rent free? space for a total of 2994rsf/2862usf of space. All rates for the Joint Use space are calculated based on the

625rsf/597usf. The Joint Use space consists of the common corridors and common break room, both internal to the total space leased by the Government. Effective May 26, 2010, the rate for the Joint Use space shall decrease to reflect the pay-off of the tenant improvement costs associated with the construction of the Joint Use space.

**Dulski Federal Building Former Tenants Joint Use**

Once all the tenant have relocated from the Dulski Federal Building into their leased space, all the former tenants of the Dulski Federal Building will be assigned Joint Use space, consisting of the Credit Union, Health Unit and the GSA Conference Center. The amount of Joint Use space assigned to each agency will be based on their percentage of the total aggregate amount of space occupied by all the relocated agencies.

**GSA Rent Review – ANY06649**

This replacement/Supplemental OA has been prepared as a result of GSA Rent review. The correction has been processed effective 8/1/2006. This OA is being processed to reflect the most recent operating cost escalation. OA ANY06649 did not reflect operating cost escalation effective 5/26/2006. Lessor was paid increase but (b) (7)(F) not charged increase. Also, the percentage of joint use occupied was adjusted with a credit du (b) (7)(F) for the period 10/2005 through 7/2006. A one-time billing adjustment will appear on your August bill for the difference between the 2 mos of escalations owed (b) (4) and the 10 months of credit due (b) (7)(F) (b) (4)

**GSA Rent Review ANY06649**

This Replacement/Supplemental OA has been prepared as a result of GSA Rent Review. The correction has been processed effective 8/1/2006. This OA is being processed to reflect no agency signature.

I agree to the initial terms with the understanding modifications will be made over time

|                       |                           |
|-----------------------|---------------------------|
| Approved              | Approved (b) (6)          |
| Agency Representative | GSA Representative        |
| Title                 | Title Contracting Officer |
| Date                  | Date 8/15/06              |

OA # (ANY06649) OA Status (Final) Version (7) Loc Code (NY7361)

ANY06649 Final

Version: 7

Page: 1 of 10  
Date Last Modified: 15-Aug-2006

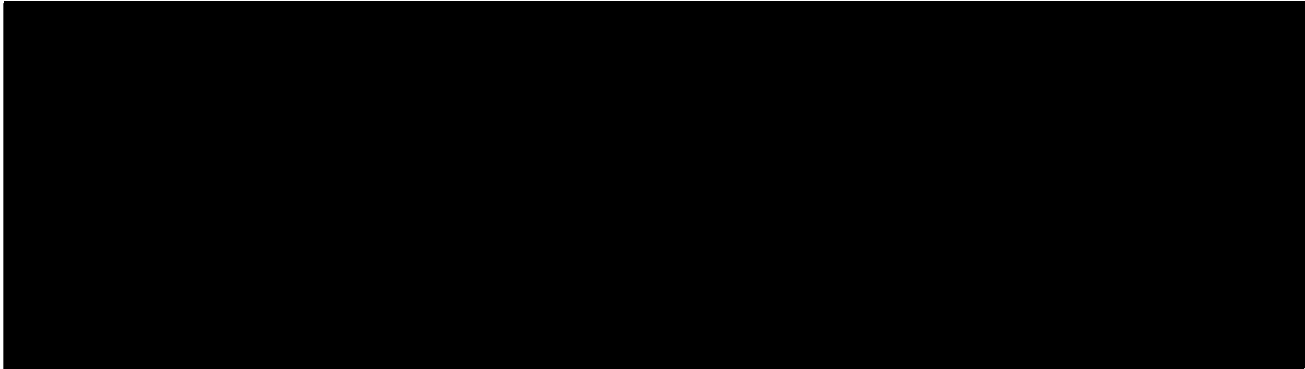
(b) (7)(F)

LN23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2006 Partial  
Period: 01-Aug-2006 to 30-Sep-2006

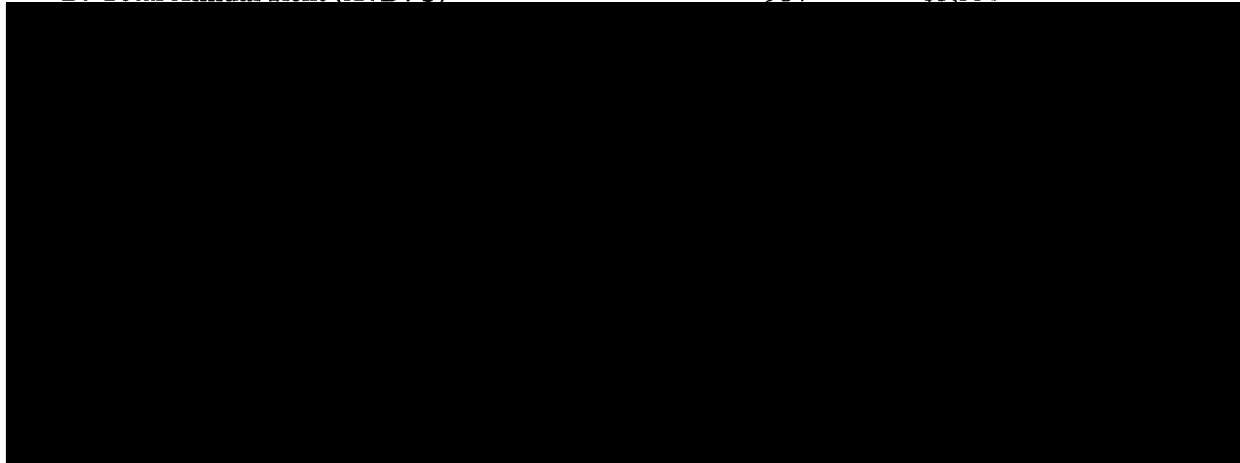
**Charge Basis Annual Charge Rate per Sq.Ft/Space**



**D. Total Annual Rent (A+B+C)**

984

\$5,331



OA # (ANY06649) OA Status (Final) Version (7) Loc Code (NY7361)

ANY06649 Final

Version: 7

Page: 2 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LN23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2007  
Period: 01-Oct-2006 to 30-Sep-2007

Charge Basis Annual Charge Rate per Sq.Ft/Space

D. Total Annual Rent (A+B+C)

984

\$32,063

ANY06649 Final

Version: 7

Page: 3 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

NY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2008  
Period: 01-Oct-2007 to 30-Sep-2008

Charge Basis Annual Charge Rate per Sq Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C)

984

\$32,207

(b) (4)

ANY06649 Final

Version: 7

Page: 4 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

NY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2009  
Period: 01-Oct-2008 to 30-Sep-2009

**Charge Basis Annual Charge Rate per Sq.Ft/Space**

(b) (4)

**D. Total Annual Rent (A+B+C)**

984

\$32,355

(b) (4)

ANY06649 Final

Version: 7

Page: 5 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

LN23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2010  
Period: 01-Oct-2009 to 30-Sep-2010

**Charge Basis Annual Charge Rate per Sq.Ft/Space**

(b) (4)

**D. Total Annual Rent (A+B+C)**

984

\$27,803

(b) (4)



ANY06649 Final

Version: 7

Page: 6 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

NY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2011  
Period: 01-Oct-2010 to 30-Sep-2011

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C)

984

\$18,551

(b) (4)

OA # (ANY06649) OA Status (Final) Version (7) Loc Code (NY7361)

ANY06649 Final

Version: 7

Page: 7 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

NY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2012  
Period: 01-Oct-2011 to 30-Sep-2012

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C)

984

\$18,712

(b) (4)

ANY06649 Final

Version: 7

Page: 8 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

NY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2013  
Period: 01-Oct-2012 to 30-Sep-2013

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C)

984

\$18,879

(b) (4)

OA # (ANY06649) OA Status (Final) Version (7) Loc Code (NY7361)

ANY06649 Final

Version: 7

Page: 9 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

NY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2014  
Period: 01-Oct-2013 to 30-Sep-2014

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C)

984

\$19,050

(b) (4)

ANY06649 Final

Version: 7

Page: 10 of 10  
Date Last Modified: 15-Aug-2006

(b) (7)(F)

NY23372

OA Start Date: 01-Aug-2006  
OA End Date: 25-May-2015

GSA Rent Review  
Fiscal Year: 2015 Partial  
Period: 01-Oct-2014 to 25-May-2015

Charge Basis Annual Charge Rate per Sq.Ft/Space

(b) (4)

D. Total Annual Rent (A+B+C)

984

\$12,791

(b) (4)